

**Subcommittee on Europe**

**Bill Delahunt (D-MA), Chairman**

**Subcommittee on Terrorism, Nonproliferation and Trade**

**A Relic of the Cold War:  
Is it Time to Repeal Jackson-Vanik for Russia?**

**Testimony of**

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**Mr. Chairman, Mr. Gallego and Members of the Europe Subcommittee:**

**Thank you for inviting me to participate in this hearing on a subject close to my heart and always on my mind after so many years since Congressman Charles Vanik sponsored the original amendment in 1973 and managed the days long passage of the bill which passed 388 to 44 in September of 1973.**

**I find the current and recurring debate about *repealing* the Jackson-Vanik provision as regards Russia fascinating and curious, as one who participated in all phases of its creation, writing, co-sponsorship and passage. That is why I am particularly pleased to have been invited to give my views here today.**

**Here is what I know and have believed since Congressman Vanik and I first discussed the concept which became the Vanik Amendment upon his return from a visit he made to the Soviet Union in December 1971, through final passage and signing ceremony at the White House in 1974 by President Gerald Ford. (As an aside, our daughter, Jessica, was literally being born at Columbia Hospital for Women a few blocks from the White House at the time of the signing ceremony and President and Mrs. Ford, good friends of many years, dubbed her, The Amendment.)**

**From the beginning, the President of the United States was given the power determine that a non-market economy country, like the then Soviet Union or Hungary or Czechoslovakia and then many more, had complied with the requirements of the Jackson Vanik Amendment and it either freed that country of the Amendment's impact on trade for a year, or, that the amendment did not apply any longer at all ,since the country in question was deemed to be in permanent compliance by the President.**

**The Congress had a number of days within which they could choose to weigh in and debate the compliance or choose not to at all, leaving the presidential finding intact The record shows even at the height of the Cold War, no presidential finding has been overturned till today.**

**It is true, during the hot days of the Cold War, both the House and the Senate felt compelled**

to get involved, using a veto and the right to object to a finding by the President which then could become a habit, a custom, during the Cold War to urge the President to deny, limit or to rail against one or another particular country's behaviors. But the actual law still allowed the president to make a finding which could take effect on its own at any time. It is my belief that the President still retains that power and *repeal* is an inappropriate term to use. In fact, if the president chooses to declare any country permanently free of coverage under the Amendment, that country is deemed to have *graduated* from application of the impact of Jackson-Vanik.

The House and the Senate may wish to go on record associating themselves with or against the Presidential finding as provided under Jackson-Vanik for each's own purposes, which is appropriate, but such action is not required to remove a country from Jackson-Vanik permanently, I believe.

I suppose what troubles me is the use of the word *repeal* generally, and in this case, specifically: If an action to repeal is desired by any country so as to bring it up to equality in the eyes of the 'World that might be because of what has been taken in past actions to do so *notwithstanding* the Amendment requirements.

In point of fact, in my view and that of many here and abroad, the Jackson-Vanik Amendment has become a very important part of ground breaking U. S. law relating to a number of principles which I always have believed demonstrated that to trade with our country, trade being a voluntary act by one country with another, allows a potential trading partner to assert certain basic requirements.

In this case it was all about the human right of freedom of emigration, and more broadly, behaviors by a country which meet the basic tests of civility and decency as much as one can ask such things of another country. In this case it worked much to the surprise of many. Not only the Soviet Union ultimately complied. So did many other countries as well

Yes, it might have been considered interference in the internal affairs of another country. But to those trapped in the tyrannies involved, having those become a matter of internal affairs was what became the distinction with a huge difference to provide a new paradigm and standard to try and help question such behaviors hitherto drawing silence and perpetuation as a result.

Yet in this modern age, such behavior as preventing movement by a people is to be considered not worthy of any country and our country represented its abhorrence in this way with full force and effect. Was that not what the highly visible post-WWII *Declaration of Human Rights* all about, after all? Or was this to be nothing more than a hollow declaration to be fudged when a real human right was confronted by one country making pursuit of trade trump any example of breeches of basic human rights. This, after the horrors of WWII and how they came about?

Does that really make this law a *relic* of the Cold War? Or is this law an important effort to be able to declare, who we are as a people and a country united in laying down principles in this day and this age and far into the future about our hope and our expectation of how our country will continue to expect other countries to behave when they wish to trade with us?

In this remarkable time in history, seeing so many countries become liberated from rejected ideologies and egregious behaviors in the name of governance, I do not know anybody who has not been justifiably joyous at watching one non-market economy country graduate beyond the need to have Jackson-Vanik applied to them again. But what if one or another country reverts to bad behaviors once again? I fear that successive congresses will have lost their zeal to deal in this manner looking at a robust and rich trade relationship allowing those considerations to trump human rights considerations and a Jackson-Vanik style law would never ever be able to be passed again.

Restoring the now hallowed principles imbedded in Jackson having been declared a relic of the Cold War and out of touch with *realities* of these days and those yet to come, will congress then making our laws be able to rally the votes necessary to restore this amendment specifically or some other more relevant to the times, to accomplish the same goal in its new context? *Is that what the United States wants its legacy to its children and theirs yet to come, to believe we as a nation have come to represent in the world?* Has such a concept become so antique, fuzzy and naive to require its abolition from the basic code of law and behavior governing our relationships with other nations?

True, there are few non-market economies left to deal with today, and they are rogues. Yet there are newly minted wanna be democracies some of which are flailing under the pain of experimentation from their previous forms of government, without any capability of predicting what next days or years might bring. What tools are readily available to use quickly which will have the tested capabilities and force of this amendment if talk and action of repeal of this amendment are successful until it no longer is in the U. S. Code at all?

As with the Constitution itself, I view this amendment as a flexible tool among others now available which should be known to be still widely supported for its value, not denigrated and discarded forever. Let the President issue a finding as this law provides, and let the amendment remain there to be used for any country to know it still is there to be among the choices of our foreign and trade policy teams and the President to be used as needs be, as is the case with other devices in code which remain to have on the ready.

Russian compliance now is good and to be celebrated along with so many others who have been graduated.

Let the President so declare carrying with his signature the graduation which is being sought to put Russia on par with other countries who abide by basic tenets of civility among the nations of this troubled world. Let Russia or any other country and people know we are full partners in a remarkable shift from a dark history to this present day, all equal in the level of status as regards trade.

Let Jackson-Vanik remain part of America's bulwark of laws which continues to express who we are and continue to be as a people in a country which is one of the oldest surviving democracies in the world.